

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5

**TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE MICHAEL R. BARRETT, DISTRICT JUDGE**

KYLE J. HEALEY, ESQ. (AUSA)
JENNIFER K. WEINHOLD, ESQ. (AUSA)
United States Attorney's Office
221 East Fourth Street, Suite 400
Cincinnati, Ohio 45202

ERIC G. ECKES, ESQ.
STEPHANIE FRANXMAN KESSLER, ESQ.
Pinales, Stachler, Young, Burrell & Crouse
455 Delta Avenue, Suite 105
Cincinnati, Ohio 45202

Court Reporter: Maryann T. Maffia, RDR

P R O C E E D I N G S

(In open court out of the presence of the jury at 9:20 a.m.
Defendant is present. Juror Number 4 entered the courtroom.)

THE COURT: Come on in. Have a seat. This is not a
big deal, trust me. And I forget, what's your number?

JUROR NUMBER 4: Four.

THE COURT: Number 4. Okay. So it's possible you
may have had an inadvertent visual contact with the defendant
this morning in the hallway, through no fault of anybody's.
Did that happen?

JUROR NO. 4: I think I seen him, like, passing by.

THE COURT: Okay. I don't know if you formed any
impressions as a result of seeing that, but can you just not
discuss that with any fellow jurors?

JUROR NO. 4: Okay.

THE COURT: Okay. Just saw him passing by?

JUROR NO. 4: Uh-huh.

THE COURT: And that didn't create any thoughts in
your mind?

JUROR NO. 4: No.

THE COURT: Okay.

JUROR NO. 4: I didn't even mention it.

THE COURT: Okay.

Any inquiry?

MR. ECKES: No, Judge.

1 THE COURT: Ma'am, that's fine. I'm sorry about the
2 confusion.

3 JUROR NO. 4: Okay.

4 THE COURT: We'll get started then in just a couple
5 of seconds. Okay?

6 JUROR NO. 4: Okay. Thank you.

7 THE COURT: Thank you very much. Thank you.

8 (Juror Number 4 exited the courtroom at 9:22 a.m. The jury
9 entered the courtroom at 9:27 a.m.)

10 THE COURT: Good morning, guys. How you doing?
11 Sorry for the little bit of confusion this morning. I'm going
12 to try to keep my sneezing and coughing, wheezing, that kind
13 of stuff, to a minimum. Okay?

14 All right. Jennifer, you want to call your first
15 witness, please?

16 MS. WEINHOLD: Yes, Your Honor. The United States
17 calls Lexus Couch.

18 THE COURT: Okay.

19 Ma'am, do you want to just come on up to the front of
20 the courtroom over here? Krista is going to administer an
21 oath or affirmation here. Okay? Just stand over here.
22 (The witness was duly sworn by the courtroom deputy.)

23 THE WITNESS: Yes.

24 THE COURT: Okay. Have a seat in the chair. Try to
25 -- so what's going to happen is, the lawyers are going to be

LEXUS COUCH - DIRECT

1 asking you some questions, but try to direct your answers
2 towards the ladies and gentlemen of the jury. Okay?

3 THE WITNESS: Yes.

4 THE COURT: Okay. And we're going to do a little bit
5 of a voice test. I'm going to ask you to state your full name
6 and spell your last name so that Maryann can take it down, and
7 we'll see if you're speaking loud enough. Okay? So go ahead.

8 THE WITNESS: My name is Lexus Hope Couch, C-o-u-c-h.

9 THE COURT: I think that's good. You guys can all
10 hear?

11 Okay, Jennifer, go ahead.

12 MS. WEINHOLD: Thank you.

13 LEXUS COUCH
14 a witness herein, testified as follows.

15 DIRECT EXAMINATION

16 BY MS. WEINHOLD:

17 Q. Good morning, Lexus. Can you actually spell your first
18 name, too, for the court reporter?

19 A. L-e-x-u-s.

20 Q. Thank you. How old are you?

21 A. Fourteen.

22 Q. And where you did you grow up?

23 A. Um, with my grandparents.

24 Q. With your grandparents? Where did your grandparents live,
25 if you remember?

1 A. In Harrison, Ohio.

2 Q. Okay. And how long were you --

3 Did you live with your mom at some point?

4 A. Yes. I live with my mom now.

5 Q. Okay. And prior to living with your grandparents, did you
6 live with your mom for a period of time?

7 A. Yes.

8 Q. Okay. Do you remember how long you lived with your mom?

9 A. Um, I just recently moved in with my mom. I was 13.

10 Q. Before you moved in with your grandparents, do you
11 remember how long you lived with your mom?

12 A. Um, no. I pretty much lived with my grandparents my whole
13 life.

14 Q. So you were living with your grandparents. Do you know
15 why you were living with your grandparents and not your mom?

16 A. Yes, because my mom had been doing drugs, and my dad died,
17 and my mom was in jail, so my grandparents took me in.

18 Q. Yeah. That must have been hard. So you were living with
19 your grandparents. Do you remember who else was living with
20 you?

21 A. My brother.

22 Q. And what's your brother's name?

23 A. Adrian Davis.

24 Q. Okay. And was anybody else living with you and your
25 grandparents?

1 A. No.

2 Q. Do you remember who lived next door when you were living
3 with your grandparents?

4 A. Yes.

5 Q. Who was that?

6 A. Um, my Aunt Michelle, my Uncle Chris, Darrah, Kyle, and
7 Brennan.

8 Q. Okay. Darrah, Kyle, and Brennan, are those your cousins?

9 A. Yes.

10 Q. Okay. Do you remember approximately what years you were
11 living with your grandparents, how old you were?

12 A. Um, I lived with them since I was, like, maybe three until
13 I was 13.

14 Q. Three until 13. And were you in the same house the entire
15 time with your grandparents?

16 A. Yes.

17 Q. So you were living next door to your Aunt Michelle and
18 Darrah and Kyle that during that time?

19 A. Yes.

20 Q. When you were living with your grandparents next door to
21 your cousins, do you remember the types of things you guys
22 would do together?

23 A. Yeah. We would mostly go outside and play in the woods
24 and catch wild animals and, like, cats and dogs.

25 Q. Okay. Did your cousins have anything next door that you

1 guys would play on or play with?

2 A. Yeah. Um, they had a trampoline and a swing set and a
3 pond.

4 Q. So would you spend a lot of time playing there?

5 A. Yes.

6 Q. And who did you usually play with?

7 A. Um, well, me and Kyle would usually play with Nick.

8 Q. And when you say "Nick," who are you referring to?

9 A. Um, Brennan's friend.

10 Q. Brennan's friend. Okay. So who is Brennan in relation to
11 Kyle?

12 A. Um, Brennan is Kyle's older brother.

13 Q. And you knew Nick through Brennan?

14 A. Yes.

15 Q. Okay. Do you see Nick here today, Lexus?

16 A. Um, I don't know. I don't know.

17 Q. Take your time.

18 A. I don't know. I don't know, unless he's fat or something.

19 Q. So when you knew Nick, was he skinny?

20 A. Not, like, skinny, but, like, chubby, I guess, yeah.

21 Q. Okay. So you said that you would play with Kyle and Nick
22 a lot?

23 A. Yes.

24 Q. How often would you play with them?

25 A. Quite a lot.

1 Q. Okay. So if you had to approximate, are you talking every
2 day?

3 A. Um, I don't remember.

4 Q. Okay. But maybe multiple times a week?

5 A. Yeah.

6 Q. What kind of things would you do with Nick and Kyle?

7 A. Um, we would play on the trampoline and -- he, like, built
8 us a thing in the woods with a hammock on it.

9 Q. Can you say that again?

10 A. He built us, like, a thing in the woods with, like, a
11 hammock on it.

12 Q. Oh, with a hammock?

13 A. Yeah. We'd just, like, play in the woods and stuff and go
14 swimming.

15 Q. Do you remember how old Nick was or -- I mean, was he a
16 lot older than you, Lexus?

17 A. Yeah. I think, like, 20, 30?

18 Q. Okay. So a lot -- because at this time you were
19 approximately what age when you were playing with him in the
20 woods?

21 A. Nine.

22 Q. Okay.

23 A. Nine, ten.

24 Q. Okay. So he was a lot older than you. What other types
25 of things -- so it sounds like you would play on the

1 trampoline, you would play in the woods. Did Nick ever give
2 you anything?

3 A. Yes.

4 Q. What kind of things would he give you?

5 A. Um, he would give me money, and he gave me a phone.

6 Q. Okay.

7 A. And, like, candy and stuff like that.

8 Q. Candy, money, and a phone. Okay. How often did he give
9 you money and candy, those types of things?

10 A. Um, I don't really remember, but --

11 Q. You don't remember?

12 A. No.

13 Q. Okay. But it's fair to say that he would do it fairly
14 regularly?

15 A. Yes.

16 Q. Okay. When he gave you money, how much money was he
17 giving you?

18 A. Um, like ten, 20. Dollars.

19 Q. Ten or 20 dollars?

20 A. Yeah, I'm pretty sure.

21 Q. And the cell phone that he gave you, what did he say when
22 he gave you that cell phone?

23 A. Um, he told me not to tell anyone that he gave it to me
24 and say I found it in the woods.

25 Q. And did you ever tell anyone where you got that cell

1 phone?

2 A. Um, not at first, but I did eventually, yes.

3 Q. And when you say "eventually," I mean, was it years later
4 that you told someone or --

5 A. No. It was like -- I told my cousin at first, and then I
6 think she told her mom, and then her mom told my grandma.

7 Q. Okay. And when you say your "cousin," are you referring
8 to Darrah?

9 A. Yes.

10 Q. Okay. Do you remember if you and Nick ever played --
11 Well, strike that.

12 Did Darrah and Kyle have a pool in their yard?

13 A. Yes.

14 Q. Do you ever remember playing in the pool with Nick?

15 A. Yes.

16 Q. Okay. Can you tell me or the members of the jury what
17 things you remember about playing in the pool with Nick?

18 A. Do you want me to tell them what I told you?

19 Q. Yeah. Tell what you remember. I want you to tell them
20 what you remember about playing in the pool.

21 A. Um, okay. So we were in the pool one day, and he told me
22 to guess his tickling spots, and I kept naming things and --
23 like, I named everything and --

24 Q. When you say you named everything, like, what types of
25 things were you naming?

1 A. Like elbow, side, thigh, feet, armpit, stuff like that.

2 And I know what he was trying to get me to say, but I didn't
3 say it. As a nine-year-old, I kind of just brushed that off,
4 but, you know.

5 Q. But you -- every time you would name different body parts,
6 what was Nick's response?

7 A. He said, "No, that's not it."

8 Q. "That's not it"? Okay.

9 A. Yes.

10 Q. Did you have some sense about what you thought he was
11 trying to get you to name?

12 A. Um, yeah, a little bit, but I didn't. I don't know.

13 Q. Yeah. So you named everything -- everything on Nick's
14 body?

15 A. Yeah.

16 Q. Did you name, like, every single part on Nick's body?

17 A. Yeah.

18 Q. Okay. And did he ever say that he was ticklish at some
19 point?

20 A. Um, what do you mean?

21 Q. Well, is that what he was asking you, to try to name his
22 ticklish parts?

23 A. Yes, but I just stopped asking.

24 Q. Yeah. At some point, you stopped asking?

25 A. Yes.

1 Q. Did you ever say -- when you were playing with him in the
2 pool, did you actually name his private part?

3 A. No, I did not.

4 Q. Okay. Did that interaction with Nick in the pool make you
5 feel uncomfortable?

6 A. Um, yes, it did.

7 Q. Lexus, I'm going to show you a video that's already been
8 admitted into evidence as Government's Exhibit 74.

9 MS. WEINHOLD: Miss Terry?

10 THE COURT: Lexus, it will be on this little screen
11 here. Okay?

12 (Video played, then stopped.)

13 Q. Okay. Did you have an opportunity to see that video,
14 Lexus?

15 A. Yes.

16 Q. Who was in that video?

17 A. Me.

18 Q. And was that you -- what were you playing on there?

19 A. A trampoline.

20 Q. Is that the trampoline that was at Darrah's house?

21 A. Yes.

22 Q. Okay. And did you see -- was that the swing set that was
23 in the background that was also at the house?

24 A. Yes.

25 Q. Okay. And that was the trampoline that you would play on

1 with Nick and Kyle?

2 A. Yeah.

3 Q. I'm going to show you another video, Lexus. It's already
4 been admitted in evidence as Government's Exhibit 75. If you
5 could watch the screen again?

6 (Video played, then stopped.)

7 Q. Lexus, could you tell -- I know that's a bit of a dark
8 video. Could you tell who was in that video?

9 A. Yes.

10 Q. Who is it?

11 A. My cousin Kyle and me.

12 Q. And did it look like you were wearing the same outfit as
13 when you were on the trampoline? Could you tell?

14 A. Yeah.

15 MS. WEINHOLD: I'm going to play another video that I
16 think has been admitted into evidence as Government's Exhibit
17 76. That may be able to show that better.

18 (The video played, then stopped.)

19 MS. WEINHOLD: Can you go back, Miss Terry? Can you
20 pause it for a second? Can you go back and try to pause it
21 when she's walking across the screen, if you can, if we could
22 just try real quick? Sorry.

23 (Video played, then paused.)

24 Q. Lexus, I know it's a little bit blurry, but can you see
25 what you're holding in your hand? Do you know what that is?

1 A. Yes. It's a phone.

2 Q. And is that the cell phone Nick gave you?

3 A. Yes.

4 Q. Okay. That's the one he told you to say that you found in
5 the woods?

6 A. Yeah.

7 Q. Okay.

8 MS. WEINHOLD: You can keep going, Miss Terry.

9 (Video played, then paused.)

10 Q. That's you holding the phone again, Lexus?

11 A. Yeah.

12 (Video stopped.)

13 Q. Lexus, who was in that video?

14 A. Me.

15 Q. Yeah. And where was that? Do you remember where that
16 was?

17 A. Yes. It was in my cousins' backyard where the fire pit
18 and the trampoline was.

19 Q. Okay. And so when you say "cousins," you're referring to
20 Darrah and Kyle?

21 A. Yes.

22 Q. Okay. Did you ever sleep over your cousins' house?

23 A. Yes.

24 Q. And do you remember how often you would sleep over?

25 A. Um, pretty often.

1 Q. Pretty often?

2 A. Yes.

3 Q. And where would you usually sleep when you slept over your
4 cousins'?

5 A. Anywhere I wanted to.

6 Q. Do you ever remember -- do you know whose bedrooms you
7 would sleep in?

8 A. I would sleep in my cousin Kyle's room or my cousin
9 Darrah's room or on the couch.

10 Q. Lexus, I'm going to show you a couple of photos that have
11 already been admitted into evidence. I'm going to show you
12 first what's already been admitted as Government's Exhibit 24.
13 Can you see that up on the screen?

14 A. Yeah.

15 Q. Is that you in the picture?

16 A. Yes.

17 Q. I'm going to also show you what's previously been admitted
18 as Government's Exhibit 41. Is that you sleeping?

19 A. Yes.

20 Q. Do know where that is?

21 A. In my cousin Kyle's room.

22 Q. And I'll have you take a look at what's been previously
23 admitted as Government's Exhibit 29. Is that you sleeping in
24 Kyle's room?

25 A. Yes.

1 Q. Do you see a cell phone in that photo?

2 A. Yes.

3 Q. What cell phone is that?

4 A. Um, the same one from earlier.

5 Q. That's the one Nick gave you?

6 A. Yes.

7 MS. WEINHOLD: Thank you, Miss Terry.

8 Q. Lexus, I want to talk a little bit about -- if there were
9 any times that you felt uncomfortable with Nick at all, can
10 you remember anything that you would tell the jury?

11 A. Yes.

12 Q. Okay.

13 A. Um, so in the picture over there, I was in my cousin
14 Kyle's room. And I woke up and he was staring at me, and
15 that's kind of weird to be staring at someone while they're
16 sleeping. And then I asked him why he was staring at me, and
17 he proceeded to tell me this story when -- that he didn't get
18 in trouble with other girls, that she lied about her age.

19 And then another one, me and my cousin Darrah, we really
20 liked watching *The Vampire Diaries* together, and my
21 nine-year-old self thought he was a vampire because he
22 convinced me that he was a vampire. And so one time he told
23 me that in order to be a vampire, you don't get bitten once,
24 you get bitten all over. So yeah.

25 Q. Okay. I'm going to ask you a couple of questions about

1 that. So you said you woke up when you were in Kyle's room
2 and Nick was in the room. Is that what you testified to?

3 A. Yes.

4 Q. Do you remember what time of night that was?

5 A. Um --

6 Q. I mean, was it the middle of night or was it in the
7 morning? Do you remember?

8 A. Probably in the middle of the night, but I don't know for
9 sure.

10 Q. That's okay. If you don't know, that's perfectly fine.
11 And so the two of you had a conversation, and you just asked
12 him why he was staring at you?

13 A. Yes.

14 Q. Okay. And can you just say again what was it that he told
15 you, because I couldn't quite make that out.

16 A. He told me that he didn't get trouble with -- he got in
17 trouble with a girl, but it was because she lied about her
18 age, that he didn't do anything. It was, like, a minor, I
19 guess.

20 Q. Okay. Did it make you feel uncomfortable or did you
21 wonder why he was telling you those things?

22 A. Yeah, I wondered why he was telling me that.

23 Q. Was that information that you had known or --

24 A. No.

25 Q. Okay. Lexus, I don't know if you can recall from

1 Government's Exhibit 29 --

2 MS. WEINHOLD: Miss Terry, can you bring that up
3 briefly?

4 Q. Does that appear to be the same outfit that you were
5 wearing on the trampoline and at the fire pit?

6 A. Yes.

7 Q. Okay. Thank you. Lexus, what's your date of birth?

8 A. April 15th, 2008.

9 Q. Lexus, do you ever remember going to Children's Hospital
10 and having a conversation with somebody?

11 A. Yes.

12 Q. What do you remember about -- do you know why you were
13 going over there?

14 A. No. They did not tell me.

15 Q. And when you say "they," who are you referring to?

16 A. Um, it was just people asking me questions. I don't know
17 who they were.

18 Q. But who took you over to Children's when you went?

19 A. Um, well, my cousin and I go the same day as me, so my
20 aunt and my grandma, they took us in one car together.

21 Q. Okay. So you went with your grandma. What did your
22 grandma say you were doing?

23 A. She said it was, like, a surprise.

24 Q. That you were going to Children's Hospital for a surprise.
25 Okay. So you don't really know why you were going over there?

1 A. No.

2 Q. But you ended up talking to an adult for a while?

3 A. Yes.

4 Q. And can you tell the members of the jury a little bit
5 about just what happened?

6 A. Um, they were just asking me questions about, like, if I
7 know Nick and, like, questions about my life.

8 Q. Okay. And is that all you remember really?

9 A. Yeah.

10 MS. WEINHOLD: No further questions, Your Honor.

11 THE COURT: Eric or Stephanie?

12 MR. ECKES: Thank you, Judge.

13 CROSS-EXAMINATION

14 BY MR. ECKES:

15 Q. Good morning, Lexus. My name is Eric. Is it okay if I
16 call you Lexus?

17 A. Yes.

18 Q. Okay. My name is Eric. If you don't understand any of my
19 questions, just tell me it was a bad question. Okay?

20 (The witness nodded.)

21 Q. What I want to talk to you about a little bit is more of
22 that interview you had with Children's Hospital. Okay? But
23 let's do a couple of things that I was wondering about.

24 Was there ever a person named Scotty that lived with you?

25 A. Um, eventually, yes, but he didn't at first.

1 Q. Who is Scotty?

2 A. That was my uncle. I forgot to mention that part.

3 Q. Okay. So your uncle lived at the house sometimes too?

4 A. Yes.

5 Q. And your brother sometimes?

6 A. Yes.

7 Q. Okay. And next door was Darrah, right?

8 A. Yes.

9 Q. And Brennan?

10 A. Yes.

11 Q. And then Kyle we talked about. Right?

12 Now, Nick had a cell phone too. Do you remember that?

13 A. Yeah.

14 Q. Would you ever see, like, other kids playing on Nick's
15 cell phone?

16 A. No.

17 Q. Okay. So you didn't see Darrah ever using the phone?

18 A. No.

19 Q. Okay. The person that you played with the most from your
20 cousins' house would be Kyle; is that right?

21 A. Yes.

22 Q. Now, Kyle also liked playing with Nick as well; is that
23 right?

24 A. Yes.

25 Q. Okay. So let's talk about that interview. That happened

1 at Children's Hospital. Do you remember the lady's name was
2 Andrea Richey?

3 A. No.

4 Q. You wouldn't remember that, would you? If I told you the
5 date was January 30th of 2020, would you even know the date?

6 A. No.

7 Q. Okay. And do you remember the room, what it looked like?

8 A. Um, yeah. It kind of looked like one of them rooms like
9 on the F.B.I. where, like, they can see you but you can't see
10 them, like, with microphones and stuff.

11 Q. Right. And I don't know, but was it like a mirror on the
12 wall where you thought maybe people were listening in?

13 A. Yeah. I didn't know there was microphones in there at
14 first, but they told me.

15 Q. Okay. And had they told you that the whole thing was
16 videotaped?

17 A. No.

18 Q. So is it fair to say you've not reviewed the videotape of
19 that whole statement?

20 A. Um, I didn't.

21 Q. Okay. Now, did you tell the truth that day?

22 A. Um, I hope so.

23 Q. Okay. Because there would be no reason for you to lie to
24 that interviewer, right?

25 A. Yes, there would be no reason to lie.

1 Q. Okay. Now, a couple quick questions before we talk about
2 some of the -- well, let's go here. Now, Nick never touched
3 you inappropriately, right?

4 A. No.

5 Q. And you were even asked -- well, we'll leave it at that.
6 He also never showed you anything inappropriate on, like,
7 his phone or a computer or something?

8 A. No, not that I recall.

9 Q. Now, today you've testified about a couple of times, and I
10 think the word "uncomfortable" was used in relation to Nick.
11 Right?

12 A. Yeah.

13 Q. Now, back when you went -- now in 2020, you would have
14 been -- correct me if I'm wrong because --

15 Is it 11 years old? Is that --

16 A. I don't know.

17 Q. Making you do the math instead of me. So you were younger
18 than you are today, right?

19 A. Yes.

20 Q. And that was closer in time to the last time you had seen
21 Nick?

22 A. Yes.

23 Q. Okay. And you were directly asked if -- well, let me
24 start here. Like, at first they didn't really even tell you
25 that they wanted to talk about Nick, right? Do you recall

1 that?

2 A. No, they did not tell me.

3 Q. And then they brought up a name "Nick," -- "Do you know
4 anybody named Nick?" -- and you didn't even really know who
5 they were talking about, did you?

6 A. No, because they said "Nicholas" and I didn't --

7 Q. You didn't know him as "Nicholas"?

8 A. No, I did not know that.

9 Q. And then they said, "Well, we're talking about your cousin
10 Brennan's friend Nick," and that's when you're like, okay, I
11 know that Nick. Is that fair?

12 A. Yes.

13 Q. Okay. And they directly asked you if Nick had ever done
14 anything to make you feel uncomfortable, and you had told them
15 no.

16 A. Yes.

17 MS. WEINHOLD: Your Honor, can we have a brief
18 sidebar on this, please?

19 THE COURT: Sure.

20 SIDEBAR CONFERENCE

21 MS. WEINHOLD: I just want to make sure. Are you
22 planning on going through every question that the forensic
23 examiner asked? Because it's going to be improper impeachment
24 if you try to ask a question that the forensic interviewer
25 didn't ask. I obviously don't have the entire recording.

1 MR. ECKES: Right. I can tell you this. I'm almost
2 done.

3 MS. WEINHOLD: Okay.

4 MR. ECKES: Secondly, I've been a little -- pushed it
5 a little bit because a lot of the questions were framed in a
6 sense of "has anyone," and my problem would be is I don't want
7 to get into a rape shield issue where I'm asking the question
8 of "Has anyone ever touched you inappropriately?" --

9 MS. WEINHOLD: Right.

10 MR. ECKES: -- because I don't know what's happened
11 in the past two, three years.

12 MS. WEINHOLD: Right.

13 MR. ECKES: So I'm trying to just narrow it to those.
14 But the questions I've asked her so far, they are direct
15 quotes that I can play.

16 MS. WEINHOLD: Okay. I just want to make sure we
17 don't get -- I didn't know how far the questioning was going.

18 MR. ECKES: Every one is a direct quote, and there is
19 maybe two or three more.

20 MS. WEINHOLD: Okay. That was my only -- I just
21 wanted to get there before --

22 THE COURT: Okay.

23 MR. ECKES: Sounds like she just wanted to talk to
24 me.

25 MS. WEINHOLD: I just wanted to do it outside of

1 Lexus's presence.

2 MR. ECKES: Understood.

3 MS. WEINHOLD: Thank you, Judge.

4 (CONCLUSION OF SIDEBAR CONFERENCE.)

5 Q. So that last question was that at that interview they had
6 asked you if Nick had done anything that made you feel nervous
7 or uncomfortable, and you had said no back then?

8 A. Yeah, I think.

9 Q. I'm not going to go through all of the questions that they
10 asked you -- in fact, I'm almost done, okay? -- but I do want
11 to confirm two things with you about that interview. Okay?

12 So in that interview when they were asking you these type
13 of questions, you never told them anything about the pool and
14 the tickling. Right?

15 A. Yeah, I didn't say that.

16 Q. Okay. And, similarly, back then you never told them about
17 waking up and Nick being in the room?

18 A. Yeah, I never said that.

19 MR. ECKES: Okay. Nothing further, Judge.

20 THE COURT: Jennifer?

21 REDIRECT EXAMINATION

22 BY MS. WEINHOLD:

23 Q. Lexus, when you went over to Children's, I think you
24 testified that your grandma told you you were going somewhere
25 for a surprise?

1 A. Yes.

2 Q. Okay. And then you ended up in an interview room. I
3 think you described it as one like you would see on an F.B.I.
4 show?

5 A. Yes.

6 Q. During that interview, did they show you any photographs
7 of yourself?

8 A. No.

9 MS. WEINHOLD: Thank you. No further questions.

10 THE COURT: Eric.

11 MR. ECKES: One follow-up, Judge.

12 RECROSS-EXAMINATION

13 BY MR. ECKES:

14 Q. So when we talk about the allegations of the tickle and
15 the waking up, the first time you told anybody about that was
16 to the government, right? To Miss Weinhold?

17 A. I think I told my cousin before, but yeah, first adult.

18 Q. First adult you told was when they were questioning you?

19 A. Yes.

20 Q. And they prepared you for your testimony today, right?

21 A. Yes.

22 MR. ECKES: Nothing further, Judge.

23 THE COURT: Okay.

24 Thank you, Lexus.

25 MS. WEINHOLD: Your Honor, let me just ask one

1 question.

2 THE COURT: Oh, sure.

3 FURTHER DIRECT EXAMINATION

4 BY MS. WEINHOLD:

5 Q. Lexus, you and I met back in the summer of this year.

6 Yes?

7 A. Yes.

8 Q. And you met Mr. Healey also, or Kyle, at that time?

9 A. Yes.

10 Q. When we met with you, what did we ask you? We just --
11 what was important? What did we tell you?

12 A. Um, well, you was just asking me if I was going to, like,
13 testify. If I was going to testify, you was like -- you were
14 going to get me ready for that.

15 Q. And did we just ask you that we just wanted to know what
16 you remembered and the truth?

17 A. Yes.

18 MS. WEINHOLD: Thank you.

19 MR. ECKES: Nothing further, Judge.

20 THE COURT: Thanks for coming in, Lexus. Were those
21 marshmallows burned up?

22 (Laughter.)

23 (The witness was excused at 10:00 a.m.)

24 * * *

25 (10:10 a.m.)

1 THE COURT: Okay. You want to call your next
2 witness, Kyle?

3 MR. HEALEY: Yes. Darrah Wilson.

4 Something up here is rattling, Judge. I'll try to
5 figure out what it is.

6 THE COURT: Okay, come on up to the front, please.
7 Just come through the sliding doors, swinging doors.

8 Krista is our courtroom deputy. She's going to
9 administer an oath or affirmation.

10 (The witness was duly sworn by the courtroom deputy.)

11 THE WITNESS: Yes.

12 THE COURT: Okay. Why don't you try to have a seat?
13 I can tell by the way you said yes you've got a soft voice, so
14 kind of get close to the microphone. What we're going to do,
15 we're going to do a sound check by asking you to state your
16 full name and spell your last name because Maryann is taking
17 down what you say. Okay?

18 THE WITNESS: Okay.

19 THE COURT: So state your full name and spell your
20 last name.

21 THE WITNESS: Darrah Emily Wilson.

22 THE COURT: W-i-l-s-o-n?

23 THE WITNESS: Yeah.

24 THE COURT: Can you guys hear that okay?

25 Okay, Kyle.

DARRAH WILSON - DIRECT

1 DARRAH WILSON

2 a witness herein, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. HEALEY:

5 Q. Hey, Darrah. What's your date of birth?

6 A. May 2nd, 2005.

7 Q. Okay. How old are you right now?

8 A. 17.

9 Q. And where do you live?

10 A. Moores Hill.

11 Q. Where is that?

12 A. In Indiana.

13 Q. Do you go to school?

14 A. Yeah.

15 Q. What grade are you in?

16 A. Eleventh.

17 Q. And what school district, or where do you go to school?

18 A. South Dearborn High School.

19 Q. Do you have a favorite subject?

20 A. Lunch.

21 (Laughter.)

22 Q. Any other favorite subject or just lunch?

23 A. My Criminal Justice course.

24 Q. Okay. I want to talk a little bit about your family. Who
25 do you reside with?

1 A. My mom and my stepdad, Michelle and Chris.

2 Q. And so Michelle is your mother, and I assume Chris is your
3 stepdad?

4 A. Mm-hmm.

5 Q. And you said you live in Moores Hill now. Where did you
6 live prior to Moores Hill?

7 A. I lived in Bright.

8 Q. Bright where?

9 A. I can't remember the road. I'm a little nervous.

10 Q. Is it in Indiana or Ohio?

11 A. It's in Indiana.

12 Q. And who were your neighbors when you lived in Bright?

13 A. Lexus and her grandma and grandpa.

14 Q. And who-all lived in your house when you lived over in
15 Bright, Indiana?

16 A. Um, my mom and Chris, my brother, and my older brother
17 lived in the garage.

18 Q. Who is your older brother? What's his name?

19 A. Brennan.

20 Q. And how much older than you is he?

21 A. I would say probably by, like, seven years, maybe more.

22 Q. And do you have a younger brother?

23 A. Mm-hmm. Kyle.

24 Q. And how old is Kyle in relation to you?

25 A. Kyle is 13.

1 Q. Four years younger than you? Is that accurate?

2 A. Yes.

3 Q. And you said Brennan kind of lived out back. Did you have
4 kind of a residence behind your house there?

5 A. Yeah. Technically it was the garage, but we turned it
6 into a room for him because our house was too small.

7 Q. And did Brennan ever have friends over?

8 A. Yes, just a couple.

9 Q. And who were Brennan's friends?

10 A. Nick was his friend. And I know there was another guy --
11 Brendon -- but he was in a car wreck, so he never made it
12 over.

13 Q. And you mentioned Nick. Do you remember Nick's full name?

14 A. Nicholas Veerkamp.

15 Q. And is Nicholas Veerkamp here in the courtroom today?

16 A. Yeah.

17 Q. And where is he seated?

18 A. Right there, to the left of me (pointing).

19 MR. HEALEY: Your Honor, may the record reflect the
20 identification of Mr. Veerkamp?

21 THE COURT: It does.

22 Q. How often did you communicate or talk to Nick?

23 A. Quite a bit. He was at our house really often.

24 Q. Did he stay the night over at your house?

25 A. Yeah, a lot.

1 Q. What was your relationship like? What were the sort of
2 things you would do together or do with Nick?

3 A. Well, he was like a brother to me since he was around so
4 much, just as much as my older brother. So, I mean, he would
5 do more than my older brother, though. Like swimming, my
6 older brother didn't really take the time of day, but
7 swimming, jumping on the trampoline, taking us to, like, the
8 gas station to get food, and helping with homework.

9 Q. And you would say "us." Who, kind of, all would be
10 included in "us" when you would do those things?

11 A. Um, sometimes my younger brother, but mostly just me and
12 Lexus.

13 Q. Was Nick -- did he treat you like Brennan treated you?

14 A. Well, probably he's a lot more, like, there than Brennan
15 was. Like, Brennan was always in his room or out somewhere or
16 just -- he didn't really, like, do, like, the things that Nick
17 would do and really talk to me.

18 Q. Would Brennan always be there when Nick was hanging out
19 with you?

20 A. Um, not -- sometimes, but other times he would come over
21 and then Brennan would not be there, and then he would just
22 hang out with me and Lexus.

23 Q. Did that ever create any problems that you witnessed
24 between Nick and Brennan?

25 A. A couple of times. But he would get mad, my older brother

1 would, because he would be over there for him, but he would be
2 -- Nick would be hanging out with me and Lexus and sometimes
3 Kyle.

4 Q. And what are the sort of things that you and Nick and
5 Lexus and Kyle would do together? Like, what were the
6 activities you would engage in?

7 A. Jumping on the trampoline, which is really not -- I mean,
8 it was fun at first, but I'm not really a -- it was kind of
9 weird.

10 Q. What was weird about it?

11 A. He would take off his shirt and just be, like, really,
12 really close when I just kind of wanted to jump on the
13 trampoline and not, like, fall down. Like, mostly a game like
14 popcorn, but like a little bit too much falling down on each
15 other and being really close.

16 Q. So who would take off their shirt on the trampoline?

17 A. Nick.

18 Q. Were there any other sort of activities that you recall
19 doing in the backyard together with everyone?

20 A. Well, there's swimming. There's that. And I'm not really
21 much of a swimmer anymore either just because it makes me
22 really self-conscious. But that was kind of weird too because
23 we would, like, swim back and forth in the pool, like as a
24 game, but it felt like -- I don't know. It kind of just felt
25 really scary being, like, grabbed and pulled and touched in

1 the water.

2 Q. Who was grabbing you and pulling you and touching you in
3 the water?

4 A. Nick.

5 Q. Would Brennan be there when you were doing these things on
6 the trampoline or in the pool?

7 A. No. Brennan didn't really do any of that. That's
8 probably why it was really fun at first, and then it was not
9 so fun because I was just getting uncomfortable feelings.

10 Q. Was your mom or Chris around when you did these things on
11 the trampoline or pool?

12 A. Um, I don't believe so. My mom was studying and doing a
13 lot of work, and Chris was always just everywhere.

14 Q. And how about Lexus's grandparents, would they be around
15 when you were doing these things in the pool?

16 A. No. I rarely saw them. They were always in the house.
17 Lexus was usually with just me and her hanging out.

18 Q. Do you recall whether Nick ever gave things to you or to
19 Lexus?

20 A. Yeah. He would give us a lot of things. Like, he would
21 give me money and tell me not to tell my brother or anybody
22 because they would get mad, or he would try to get us to go to
23 the gas station, and I just didn't really want to go.

24 Q. And did you ever hear Nick say anything that kind of made
25 you uncomfortable either about you or about Lexus?

1 A. Yeah.

2 Q. What sort of things do you recall him saying?

3 A. Well, one time he -- he told me I had, like, a bubble
4 butt. And, like, that made me really uncomfortable because if
5 one of my friends would say that to me, I would tell them,
6 like, that that's, like, cringy or I just wouldn't really like
7 it.

8 Q. Do you recall how old you were when he said that to you?

9 A. Probably 12 or 13. It's been a little bit.

10 Q. Do you recall how old you think he was at that time?

11 A. I think he was older than my brother, I think, so a bigger
12 age difference than seven years, probably like ten.

13 Q. Did you have the opportunity to kind of observe Nick
14 interact with Lexus?

15 A. Um, maybe like when I would get off the trampoline and go
16 inside. But most of the time when I would try to leave
17 because I was uncomfortable and my brother was out there, so
18 it was -- I thought it was fine if I just left them to do
19 whatever they were doing and I went inside.

20 Q. So you would be outside seemingly on the trampoline or
21 somewhere, and Nick was there, and you would get uncomfortable
22 so you would go inside?

23 A. Yeah, and I would leave them outside.

24 Q. And "them" is who?

25 A. Just Kyle and Lexus.

1 Q. So your little brother and Lexus would be out there?

2 A. Yeah.

3 Q. And, again, what was it that would make you uncomfortable
4 that you wanted to get out of there?

5 A. Well, I guess it was like more like a feeling but, like --
6 I don't know, being, like, on the trampoline and, like,
7 falling down so many times, sometimes you get a little dizzy
8 and stuff, and sometimes you just want to jump on the
9 trampoline. It was almost like a popcorn game where you jump
10 up and down and people would fall. Sometimes you bump into
11 each other. But it was kind of like intensified, a lot more
12 touching and a lot more brushes up against each other.

13 Q. Do you recall if you ever texted with Nick?

14 A. Yeah. I had a phone. I don't remember how we exchanged
15 numbers, but I did have his number and he would text me quite
16 a bit.

17 Q. I would like to show you -- before we get into that, I
18 would like to show you up on the screen -- if you would look
19 at the screen, we're going to show you Exhibit 18.

20 Do you recognize the swing set in this?

21 A. I do. That's the swing set we used to have when we moved
22 into our house. It was there when we got there, and it's kind
23 of run down a little bit. I could see the rust on it.

24 Q. Is that that house that we talked about in Bright?

25 A. Yeah.

1 MR. HEALEY: Then if we could go to Exhibit 19?

2 That's not the one. If you could go to Exhibit 20 actually?

3 There we go.

4 Q. Looking at Exhibit 20 here, do you recognize the property
5 there?

6 A. Yeah. That's my house in Bright.

7 Q. And is that the trampoline we talked about?

8 A. Yeah.

9 Q. Do you recall ever --

10 MR. HEALEY: And we can bring that down, take that
11 down.

12 Q. Do you recall whether Nick was ever photographing you
13 girls?

14 A. Yeah. Sorry.

15 Q. It's okay. How often --

16 Do you need a minute?

17 A. Yeah.

18 MR. HEALEY: Your Honor, can we have five minutes?

19 THE COURT: Yeah, sure. We can take a five-minute
20 break.

21 Hey, guys, don't form or express any opinions about
22 the case. Don't discuss the case with anyone or let them
23 discuss it with you. We'll see you in about five or ten
24 minutes.

25 Darrah, if you want to step down, you can. Go ahead.

1 (Recess taken 10:24 a.m. - 10:42 a.m.)

2 THE COURT: Ready?

3 SOME JURORS: Yes.

4 THE COURT: Okay, Kyle.

5 Q. So right before we took the break, Darrah, I had asked you
6 if you had ever seen Nick taking photos of you girls. Did you
7 ever witness him doing that?

8 A. Yeah. He bought -- I don't know if he bought the camera,
9 but he brought a camera over. It was, like, a really nice
10 camera. And one time when we were on the trampoline, he was
11 taking pictures. It was pointed at us, and he was taking them
12 for as long as we were on there. I eventually went up and
13 asked him about it, and he was telling me it was just the
14 trees.

15 Q. Could you actually see any of the photos he took though?

16 A. No. He would not show me.

17 Q. So you asked him what photos he took, and he said the
18 photos were of the trees?

19 A. Yeah, the trees behind us. But the trees are like -- our
20 backyard kind of goes down a slant, and we were, like, at the
21 bottom. The trees in the back, it kind of goes up again into
22 a hill. So that's the only reason I confronted it was because
23 we're down here where the camera is pointed and the trees are,
24 like, up there.

25 Q. So did he show those photos to you or not?

1 A. I think -- I think after a while he was going through it,
2 and then all of a sudden there was -- he showed me a couple of
3 pictures of trees.

4 Q. Did you ever see Nick on his cell phone when you guys were
5 playing?

6 A. Um, there were a couple of times. I mean, he was in our
7 house a lot, so anytime he was just chilling on our couch or
8 just standing next to us, he was pretty much on it.

9 Q. When he would come to your house, how long would he stay?

10 A. Well, he would come at, like, at any time. Sometimes,
11 like, 11 at night. Sometimes it could be right after school,
12 or he could be there before we got home from school, and he
13 would just be there for a really long time. And probably six
14 out of ten nights he would spend the night.

15 Q. I would like to show you what's been marked as
16 Government's Exhibit 114 and 115. They haven't been admitted
17 yet, so they're going to pop up on your screen.

18 THE COURT: Just the witness screen, Krista.

19 What are the numbers, Kyle?

20 MR. HEALEY: 114 and 115.

21 THE COURT: I thought those are admitted?

22 MR. HEALEY: Are those admitted?

23 THE COURT: Yeah, those are.

24 MR. HEALEY: Okay. We can show those.

25 Q. Do you recognize 114?

1 A. That is my old phone that I had.

2 Q. Could you look at 115 real quick?

3 A. Yeah. That's my old Samsung phone that I had.

4 Q. What happened to that phone?

5 A. Well, I gave it to the F.B.I.

6 Q. Okay. Is this the phone that you would have when you
7 would communicate with Nick?

8 A. It is. That's the one I had the longest. Yeah, that's
9 the one I had.

10 Q. I would now like to show you what hasn't been admitted.
11 We'll start with 104 through 106. Does 104 -- what does that
12 look like?

13 A. That looks like the background of my phone.

14 Q. Kind of like the home screen?

15 A. Yeah.

16 Q. And then 105?

17 THE COURT: I thought those were admitted already?

18 MR. ECKES: These are not admitted yet, Judge.

19 THE COURT: They were used but not admitted.

20 MR. ECKES: If we could take them off the screen?

21 THE COURT: Got it.

22 Sorry, Kyle. Go ahead.

23 MR. ECKES: Judge, they're on the jury screens --

24 COURTROOM DEPUTY: They're not on the jury screen.

25 MR. ECKES: Understood. Sorry.

1 Q. Do you remember what your old phone number was or what
2 your --

3 A. The picture that you're showing me is my old phone number,
4 and it's now my stepdad's phone number.

5 Q. Can you read that number for us?

6 A. 513-362-9270.

7 MR. HEALEY: And can we look at 106, please?

8 Q. Do you recognize this?

9 A. Yup. That's my phone screen.

10 Q. And if you would text or message on this phone, what app
11 would you use?

12 A. The Messages app.

13 Q. Is that depicted in 106?

14 A. Yeah, the little orange bubble.

15 MR. HEALEY: Your Honor, the government would move
16 for the admission of 104 through and 106 and ask to publish.

17 THE COURT: Any objections?

18 MR. ECKES: No objections.

19 THE COURT: They're admitted.

20 (Government Exhibit Numbers 104, 105 & 106 were admitted.)

21 MR. HEALEY: If we could just show the jury 104?

22 Q. So Darrah, can we go through it again now that the jurors
23 can see it? So tell us, what does this depict?

24 A. That is the background of my old phone.

25 Q. And then if we do 105?

1 A. That is my old phone number that is now my stepdad's phone
2 number.

3 Q. And 106?

4 A. That's the Messages app, the orange bubble that I texted
5 on.

6 Q. All right. We're going to go through 107 through 113 --

7 MR. HEALEY: -- which have not been admitted, so if
8 we could kill the juror screens for a minute?

9 Q. Do you recognize 107?

10 MR. ECKES: Judge, the foundation was laid for these.
11 I'm not going to object to their admission, if we just wanted
12 to do this once.

13 THE COURT: Just run through the numbers again.

14 MR. HEALEY: 107 through 113, if we could move to
15 admit those and publish? I'll go through them and do it that
16 way.

17 THE COURT: Okay. They're admitted.

18 MR. HEALEY: Thank you.

19 (Government Exhibit Numbers 107 through 113 were admitted.)

20 Q. All right. Looking at the screen now, do you recognize
21 this?

22 A. Yeah. That's my contact messages list.

23 Q. So these are the people you would be texting?

24 A. Yes.

25 Q. So who is "BFF Forever," do you recall?

1 A. That's my old best friend Ashley.

2 Q. And "Sally," do you recall who "Sally" was?

3 A. Sally was my -- also one of my best friends from my very
4 first house that I was in.

5 Q. How about "Nick"? Do you recall who that was?

6 A. That is the Nick who is here today.

7 Q. And then, like, say "Aunt Lori," who is she?

8 A. That is my Aunt Lori.

9 MR. HEALEY: Could we go to 108, please?

10 Q. Do you recognize this as a portion of a text conversation
11 between you and Nick on September 9, 2019?

12 A. I do.

13 Q. And it looks like you reached out to Nick about your
14 homework. Is that accurate?

15 A. I did.

16 Q. And what did he text back to you?

17 A. "So what were you saying about me and Lexus when we were
18 on the back porch."

19 Q. Can you tell us what you texted back to him?

20 A. "She saw you, I'm surprised she didn't come and say hi."

21 Q. Do you recall the circumstances that brought out this
22 text?

23 A. I do. Our houses are really close together, and you can
24 see through Lexus's window down from our back porch. It's
25 just, like, one window, and you can see right into her room.

1 You can see her. You can see anything in her room. And
2 usually if she can see us outside of it, she would come over
3 and hang out.

4 Q. And it seems like from your text this was an instance
5 where she didn't actually come out to say hi?

6 A. Yeah, which we -- I saw her through the window. She was
7 in there and she had looked, but she never came out to play or
8 say hi.

9 Q. And what did Nick say back to you?

10 A. "She did when I was down there. Does she have a phone?"

11 Q. What did you say?

12 A. I said: "Yeah, she does."

13 Q. And then did Nick respond to you?

14 A. He did. He said: "Lol, I'm surprised she hasn't tried to
15 get my number from you."

16 Q. What did you say?

17 A. I said: "Yeah me too, I don't think she knows that I have
18 it."

19 Q. And why did you think that -- why were you surprised that
20 she hadn't tried to get Nick's phone number?

21 A. I didn't think she would be interested, and I've never
22 brought up, like, hey, I have Nick's number to her, never
23 tried to give it to her. She's never said anything or asked
24 anything about it. So I was, like, I don't know, just really
25 not surprised that she didn't try to get it from me.

1 Q. Okay.

2 MR. HEALEY: Could we go to Exhibit 109, please?

3 Q. After you mentioned that to Nick, what did he say to you?

4 A. He said: "Lol, well, if she does ask, I guess you can
5 give it to her. I feel like everyone should have it for
6 emergencies simply because I'm a fixer and dependable."

7 Q. And did you respond to him with that?

8 A. Yes. I said: "I don't think that's a good idea. She
9 will get you in trouble."

10 Q. And away from the text messages here, what were you
11 concerned about Nick getting in trouble for?

12 A. Well, she's -- where she was with her family, she was
13 always up at our house because we would take her places, she
14 would get attention, and we would hang out. And also,
15 typically older men who she doesn't really -- I wouldn't just
16 give her an older guy's number. I only had his number because
17 he's like a brother to me, so I didn't feel the need that she
18 needed it. And then if they would contact and get in trouble,
19 it would be -- because he's older and she's younger, and she's
20 probably looking for some sort of attention.

21 Q. Did Lexus get a lot of attention at her grandparents'
22 house?

23 A. No.

24 Q. You said that pretty affirmatively. Can you elaborate?

25 A. Well, I mean, I knew they put a roof over her head and

1 they gave her food and clothes, but they're really old. They
2 raised her older brother and my stepdad and her mom, so
3 they're kind of getting, like, grumpy and old and pushing her
4 out the door. So she was up at our house, like, every single
5 day, spending the night even on school nights.

6 Q. Sorry, I'm just -- the grumpy part.

7 So can you elaborate a little on the attention that
8 perhaps Nick would pay to you versus the type of attention he
9 would pay to Lexus?

10 A. Well, the -- like, can you, like, rephrase that or say it
11 again?

12 Q. Nick paid you more attention than Lexus, or was it the
13 other way around?

14 A. At first I think he was giving me a lot of attention, like
15 separate attention from my brother and her. And then I think
16 it kind of shifted, like more attention towards her, like more
17 gas station trips and stuff with her and my brother than me,
18 because I probably denied so many times and just didn't really
19 go outside and hang out with him anymore.

20 MR. HEALEY: If we could go back to Exhibit 109 here?

21 Q. After you mentioned Nick could get in trouble, what's he
22 respond with?

23 A. He said: "Yeah, how so ?"

24 Q. And so what did you tell him?

25 A. I said: "She's not private about who she texts, and then

1 if it gets out that she was texting an older guy, what will
2 people think. Nick, be smart about this. Plus she is a bit
3 of a ho, so who knows what she will say to people."

4 Q. And what else did you text after that?

5 A. "I can't have someone as important as you getting in
6 trouble because of a dumbass like her."

7 Q. What were you trying to convey to Nick in these texts?

8 A. I didn't think it was a good idea for him to be texting
9 her, and I didn't -- I really didn't want them to, like, I
10 don't know, have any weird special relationship probably. It
11 was -- she was really -- really needed attention.

12 MR. HEALEY: Okay. If we could go to Exhibit 110,
13 please?

14 Q. Does Nick respond to that?

15 A. Yes. "Well, I appreciate you looking out for me and I
16 don't have many people that do. I'm usually the one looking
17 out for people, so thanks. I guess I'll just have to wait
18 till she's old enough."

19 Q. And what did you respond to by that?

20 A. I said: "Yeah, if she's not a stripper by then."

21 And then I said: "Then you won't get to talk because she
22 will have too many boys around her, and you've been in my life
23 for a while so it's only natural that I care and look out for
24 you. You are basically my older brother. Thank you for
25 looking out for me and especially Brennan."

1 Q. You had mentioned that you thought Lexus would have a lot
2 of boys around then. What was she like even back then that
3 led you to believe she was always going to have some boys
4 around?

5 A. Well, the way she started dressing was a little, like,
6 provocative. That's a word, I think, like. And she was
7 always -- she had a couple of boyfriends who were -- both
8 didn't know that she was dating, so she had two at the same
9 time. One was in another state, like. So she just -- she
10 always had guys coming up to her and asking her out, even at a
11 young age.

12 Q. So Nick responds to that, and then it looks like you send
13 another message to him, "I know, still thank you"?

14 A. Yeah.

15 MR. HEALEY: And I think if we can go to Exhibit 111?

16 Q. Now, what does Nick say in response after you thanked him.

17 A. He said: "I think it's funny everyone thinks she's going
18 to be a stripper and I'm just thinking how much she needs
19 someone like me around so that doesn't happen. And by that I
20 mean a strong male role model that knows how to treat a girl
21 right instead of putting her down and excluding her, honestly
22 if she does, end you."

23 Q. Do you respond to that message?

24 A. Yeah. I said: "Well, I guess, if you say so. I don't
25 think anyone does this to her. Her choices were made by her

1 and will continue to be made by her. She learned this from
2 her brother, if anything. I don't think Chris was even around
3 when she got moved in with her grandparents."

4 Q. And you said "her brother." Who were you referencing to,
5 "her brother"?

6 A. Um, Adrian. I don't know his last name, but he's her
7 older brother. He's kind have gotten influenced since they
8 were under the same roof, and he was always out partying and
9 bringing skinny girls home.

10 Q. Okay. When you reference "Chris," who are you referring
11 to?

12 A. My stepdad, her uncle.

13 Q. And then does Nick respond to your text?

14 A. Yeah. He says: "Yeah, I could see her brother being an
15 issue, and it's more of the fact she didn't really have a
16 father figure which causes daddy issues."

17 MR. HEALEY: Could we go Exhibit 112, please?

18 Q. Does Nick continue after that text?

19 A. Yeah. He says: "I also think it's kind of funny you say
20 she's a hoe 'cause I remember her being kind of a prude. She
21 would always make this weird sour face anytime I would mention
22 something sexual, lol."

23 Q. And did you respond to that?

24 A. I did. I said: "Well, did you know her like I did, nope,
25 she is a very knowing little girl, she knows a lot more about

1 that sexual stuff than I do, I guarantee it. She does the
2 things that she does with her own will. It's her choice, and
3 I'm not going to stop her. You can convince her if you want."

4 Q. And what did you think Nick was trying to convince her of?

5 MR. ECKES: Objection. Calls for speculation.

6 THE COURT: Sustained.

7 Q. Did Nick respond to that text?

8 A. Yup. He said: "So she just plays innocent. I know I
9 could convince her, the problem lies in what you mentioned
10 earlier, me about being able to talk to her without having to
11 worry about getting in trouble."

12 Q. And did you respond to that text?

13 A. I did. I said: "Yeah. She does just play innocent. She
14 knows a lot more than everybody thinks, and it is a big
15 problem. That's why I told you, I'm going to" --

16 MR. HEALEY: If we could go to 113?

17 Q. I think you can finish that one, if you look at the top?

18 A. "I'm going to go to bed. It's getting late. Have a good
19 night. See you next time you're over."

20 Q. Does Nick respond to that?

21 A. Yeah. He says: "Good night. You can always text me
22 whenever, it doesn't just have to be when I'm over there,
23 lol."

24 Q. Looking back on this conversation with Nick, how do you
25 feel about that conversation now?

1 A. Now that I look at it in my age and I'm more aware, I feel
2 really stupid for not seeing it and telling anybody sooner.

3 Q. And when you see "seeing it," what are you seeing?

4 A. How weird that was to say, like, how he said sexual,
5 anything sexual. That's really weird to say about a little
6 ten-year-old, nine-year-old girl.

7 MR. HEALEY: We can take down the text messages.

8 Q. Now, I want to just get to one more area here. Darrah, do
9 you ever recall anyone taking photos up your skirt?

10 A. Well, one time was like a dream, but it's not really a
11 dream because it felt so real that I was shaking. My eyes
12 were open, and I was in my bed, and I felt somebody lift up my
13 skirt on my bed. All my blankets were off. And when I
14 panicked and opened my eyes and, you know, like, pushed my
15 skirt back down, there is a figure in my room on the ground
16 just, like, sitting on the ground looking at me. And I just
17 was so scared that I didn't move, and I didn't want to get up,
18 didn't want to run to my mom and tell her.

19 Q. Do you recall how long ago you had this dream or this
20 event?

21 A. It's been a little bit, probably -- I was probably 13,
22 right probably 13.

23 Q. And you said you think it was a dream. Was it real or are
24 you unsure?

25 A. I am unsure because I feel like -- I feel like that's

1 something that would only happen in a dream, but it felt so
2 real. I was shaking and crying and just terrified.

3 MR. HEALEY: Thank you. I don't have any more
4 questions.

5 THE COURT: Eric or Stephanie?

6 MR. ECKES: Thank you, Judge.

7 THE COURT: They are going to have some questions for
8 you. Okay?

9 THE WITNESS: Mm-hmm.

10 CROSS-EXAMINATION

11 BY MR. ECKES:

12 Q. Hello, Darrah. My name is Eric. I'm Nick's lawyer.

13 Okay? So do you mind if I call you Darrah?

14 A. No.

15 Q. Okay. And if I ask a question -- I sometimes do this, the
16 jury already knows -- that doesn't make sense, just tell me
17 and I'll rephrase it. Okay?

18 A. Okay.

19 Q. And I don't have a lot of questions, so this won't be very
20 difficult.

21 You sometimes would get on Nick's phone; is that right?

22 A. I've only been on his phone once that I can remember.

23 Q. One time that you remember?

24 A. Uh-huh.

25 Q. Okay. But let's just -- did you ever see the other kids

1 that were around the property on Nick's phone?

2 A. I have never seen any other kids on his phone. It was the
3 one time that I was on his phone.

4 Q. Now, to get kind of ready for today, you would have met
5 with the prosecutors, right?

6 A. Yeah.

7 Q. And the prosecutors are Mr. Kyle, right? You've met with
8 him a couple of times?

9 A. Yes. Sorry.

10 Q. But you and I have never talked, right?

11 A. No.

12 Q. The pictures that you were talking about earlier, those
13 were with a big, fancy camera, I think you said?

14 A. Yeah.

15 Q. And that was towards -- Nick got that camera towards the
16 end of your time living out there; is that accurate?

17 A. I would say so, somewhere.

18 Q. Towards the end?

19 A. Yeah.

20 Q. Okay. Now, Nick never showed you any of his body parts,
21 right?

22 A. Not that I can -- other than, like, you know, just taking
23 off his shirt on the trampoline or being in the pool.

24 Q. What I'm getting at, though, he never showed you any of
25 his privates or anything like that?

1 A. No.

2 Q. And he never asked for you to touch him inappropriately or
3 anything like that?

4 A. No.

5 Q. And I believe -- do you remember when you -- you had to
6 meet at Children's Hospital with a woman and be interviewed.
7 Do you recall that? This would have been years ago.

8 A. No.

9 Q. So take your mind back to, like, January of 2020. Do you
10 remember meeting with somebody and talking about what you knew
11 about Nick?

12 A. Not that I remember.

13 Q. Okay. So when is the first time that you remember being
14 asked questions about Nick and this trial? Was it with Kyle?

15 A. Um, I think so. I'm not really sure. It was a really,
16 really long time ago that all this, like, happened and he was
17 taken away.

18 Q. So there was a time period where -- do you remember when
19 -- now, let's say, before you ever spoke with either Kyle or
20 anybody else, you talked with your mom about Nick, did you
21 not?

22 A. About, like, the girl?

23 Q. The -- and I'm assuming "the girl," you mean Lexus?

24 A. No, about the -- when he was registered as a sex offender?

25 Q. Okay. That makes sense. So you knew about that as well,

1 that he was registered as a sex offender?

2 A. Yes.

3 Q. And your mom knew about that?

4 A. Yes. She asked me if I was okay if I wanted him around or
5 if I was comfortable.

6 Q. Okay. And so Brennan would have known about that too,
7 right?

8 A. Maybe.

9 Q. Well, you don't know what Brennan knows. See, I told you
10 I don't always ask great questions.

11 So after that then, there is a time period where they --
12 where you've heard that a picture was taken of Lexus; is that
13 right? You learned that from your mom?

14 A. Not from my mom.

15 Q. Who did you learn that from?

16 A. I learned that from -- the prosecutor?

17 Q. From Kyle?

18 A. Yeah.

19 Q. Okay. Nick would share his passwords with you for things
20 like Netflix if you asked, right?

21 A. Yes.

22 Q. So you would use his Netflix. It wasn't a big deal. You
23 just asked him and he would give you the password, right?

24 A. Yeah.

25 Q. He also, as part of that, would just give you his e-mail

1 account, the name of it, right?

2 A. Like, for the passwords and stuff on that?

3 Q. Yeah. Because with Netflix, you have to use a username,
4 which is often an e-mail. Is that -- you may know more about
5 this than me. Do you know what I'm talking about in terms of
6 an e-mail account, username?

7 A. Um, a username? I think he probably set it up because I
8 don't remember -- if I'm being honest, I do not remember any
9 password or, like, e-mail that he had ever given me.

10 Q. Okay. That makes sense. Because this was a while ago,
11 right? But you were able to log onto his Netflix without much
12 of a problem?

13 A. Yeah.

14 Q. Okay. Now, this dream situation, did you -- would it be
15 fair to say this is pretty blurry in your mind as to whether
16 it's real or whether it's a dream?

17 A. It's not blurry. It's very visible, like, that the fear I
18 felt, the shadow man who was, like, on the floor of my room
19 staring. Like, I can see the outlines really clearly.

20 Q. Now, your -- your stepdad is Chris?

21 A. Yes.

22 Q. He would often come in your room in the middle of the
23 night because he had to go to work; is that right?

24 A. Um, no. If I was up and outside, like, if I was up and he
25 knew I was up, he would say, "Have a good day, sweetheart."

1 Q. And here's why I'm asking that in terms of related to that
2 dream scenario. There is a -- let me ask you this. There is
3 a video of you giving a statement in January of 2022. Are you
4 aware of that?

5 A. Yes.

6 Q. Okay. And you talk about the dream in that situation in
7 connection with an additional statement about that you didn't
8 know if it was Chris coming in the room because it was one in
9 the morning and he sometimes said goodnight before he went on
10 a second shift or something. Does that ring any bells?

11 A. I think it -- it rings probably a little bit, because
12 right now my doors are always locked and he does not -- I
13 don't really see him that much other than when I'm home. But
14 at that time, he -- who knows. I do remember a few times
15 where I was up and I was walking around or I was using the
16 restroom or something, and he would be -- he would just be out
17 there doing Lord knows what, but probably getting food.

18 Q. Understood. All right. Thank you, Darrah.

19 A. Yeah.

20 THE COURT: Redirect?

21 MR. HEALEY: Briefly, Your Honor.

22 REDIRECT EXAMINATION

23 BY MR. HEALEY:

24 Q. Did Nick ever try to hang out with you in your room?

25 A. Yes, multiple times, on different nights.

1 MR. ECKES: Objection. Outside the scope of cross.

2 THE COURT: It is a little bit outside the scope.

3 MR. HEALEY: Your Honor, they just brought up whether
4 the stepfather would come into her room. I can't ask her who
5 else would come in?

6 THE COURT: Go ahead.

7 Q. Did that cause you to change your behavior in your room
8 when Nick was around?

9 A. It did. I started kind of locking the doors even using
10 the restroom, just because -- I couldn't tell you, like, what
11 exactly. It was an uncomfortable feeling just because --
12 maybe the first night or the second night it was okay, but
13 after a few times that it just kept happening more often and
14 later into the night, I was just like I'm a kid, and sometimes
15 I don't sleep with clothes on, I'm going to lock my door, and
16 he doesn't need to be in there.

17 Q. And this is in reference to Nick, not Chris?

18 A. Yes.

19 MR. HEALEY: Nothing further, Your Honor.

20 MR. ECKES: Nothing further, Judge.

21 THE COURT: Okay.

22 You can step down. Thank you.

23 THE WITNESS: Yeah.

24 THE COURT: You can get back to school in time for
25 lunch.

1 **(Laughter)**

2 **(The witness was excused at 11:13 a.m.)**

3 **(Conclusion of excerpt of proceedings.)**

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

I N D E X O F W I T N E S S E S

GOVERNMENT'S WITNESSESPAGELEXUS COUCH

| | |
|---|----|
| Direct Examination by Ms. Weinhold..... | 4 |
| Cross-Examination by Mr. Eckes..... | 19 |
| Redirect Examination by Ms. Weinhold..... | 25 |
| Recross-Examination by Mr. Eckes..... | 26 |
| Further Direct Examination by Ms. Weinhold... | 27 |

DARRAH WILSON

| | |
|---|----|
| Direct Examination by Mr. Healey..... | 28 |
| Cross-Examination by Mr. Eckes..... | 52 |
| Redirect Examination by Mr. Healey..... | 57 |

E X H I B I T S

NUMBERADMITTED

| | |
|---|----|
| Government's Exhibits 104, 105 & 106..... | 41 |
| Government's Exhibits 107-113..... | 42 |

C E R T I F I C A T E

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM
THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

/s/Maryann T. Maffia November 28, 2022

Maryann T. Maffia, RDR
Official Court Reporter